

# **EXHIBIT D**



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
 United States Patent and Trademark Office  
 P.O. Box 1450  
 Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Ex Parte Reexamination Filing Data - December 31, 20071. Total requests filed since start of ex parte reexam on 07/01/81 ..... 9060<sup>1</sup>

a. By patent owner	3495	39%
b. By other member of public	5400	59%
c. By order of Commissioner	165	2%

2. Number of filings by discipline

a. Chemical Operation	2703	30%
b. Electrical Operation	3023	33%
c. Mechanical Operation	3334	37%

3. Annual Ex Parte Reexam Filings

Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.
1981	78 (3 mos.)	1989	243	1997	376	2005	524
1982	187	1990	297	1998	350	2006	511
1983	186	1991	307	1999	385	2007	643
1984	189	1992	392	2000	318	2008	165
1985	230	1993	359	2001	296		
1986	232	1994	379	2002	272		
1987	240	1995	392	2003	392		
1988	268	1996	418	2004	441		

4. Number known to be in litigation ..... 2398 26%

5. Determinations on requests ..... 8714

a. No. granted ..... 7998 92%

(1) By examiner	7885
(2) By Director (on petition)	113

b. No. denied ..... 716 8%

(1) By examiner	681
(2) Order vacated	35

---

<sup>1</sup>Of the requests received in FY 2008, 23 requests have not yet been accorded a filing date, and preprocessing of 3 requests was terminated for failure to comply with the requirements of 37 CFR 1.510. See Clarification of Filing Date Requirements for *Ex Parte* and *Inter Partes* Reexamination Proceedings, Final Rule, 71 Fed. Reg. 44219 (August 4, 2006).

6. Total examiner denials (includes denials reversed by Director) . . . . .	794			
a. Patent owner requester	439		55%	
b. Third party requester	355		45%	
7. Overall reexamination pendency (Filing date to certificate issue date)				
a. Average pendency			24.0 (mos.)	
b. Median pendency			18.6 (mos.)	
8. Reexam certificate claim analysis:	<u>Owner</u>	<u>3rd Party</u>	<u>Comm'r</u>	<u>Overall</u>
	<u>Requester</u>	<u>Requester</u>	<u>Initiated</u>	
a. All claims confirmed	23%	29%	12%	26%
b. All claims cancelled	7%	12%	21%	10%
c. Claims changes	70%	59%	67%	64%
9. Total ex parte reexamination certificates issued (1981 - present) . . . . .	6066			
a. Certificates with all claims confirmed			1556	26%
b. Certificates with all claims canceled			636	10%
c. Certificates with claims changes			3874	64%
10. Reexam claim analysis - requester is patent owner or 3rd party; or Comm'r initiated.				
a. Certificates - PATENT OWNER REQUESTER . . . . .	2607			
(1) All claims confirmed			592	23%
(2) All claims canceled			194	7%
(3) Claim changes			1821	70%
b. Certificates - 3rd PARTY REQUESTER . . . . .	3313			
(1) All claims confirmed			946	29%
(2) All claims canceled			413	12%
(3) Claim changes			1954	59%
c. Certificates - COMM'R INITIATED REEXAM . . . . .	146			
(1) All claims confirmed			18	12%
(2) All claims canceled			30	21%
(3) Claim changes			98	67%